

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

PREPARED BY: Barbara McDaniel, MMC, Assistant Town Clerk

SUBJECT: June 20, 2007 minutes

AFFECTED DISTRICT: n/a

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: June 20, 2007 (Regular Meeting)

REPORT IN BRIEF: Council minutes from the June 20, 2007 Council meeting.

PREVIOUS ACTIONS: n/a

CONCURRENCES: n/a

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Motion to approve

Attachment(s): June 20, 2007 minutes

**TOWN OF DAVIE
REGULAR MEETING
JUNE 20, 2007**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:32 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Truex, Vice-Mayor Caletka, and Councilmembers Crowley, Luis and Starkey. Also present were Town Administrator Shimun, Town Attorney Cherof, and Town Clerk Muniz recording the meeting.

3. PRESENTATIONS

3.1 Marina Mile Association - Margaret Croxton, Executive Director

Ms. Croxton provided a brief history of Marina Mile and explained how Davie had worked with the Association on projects.

Bob Roscioli, from Roscioli Yachting Center, gave a brief history of the Yachting Center and explained the impact the yachting industry had on the local economy.

Paul Engle, from Bradford Marine, thanked the Town for their support over the years, and asked Council for its support in any future development.

Gene Douglas, Vice President of Bradford Marine, also thanked the Town for its support

3.2 Vehicle Access in the Everglades Preservation Area - Matthew Schwartz, Sierra Club

No presentation was made.

3.3 Pirtle Construction "Green" Headquarters - Bill Ellis, Assistant Vice-President

Bill Ellis introduced architect Jose Marguido and Paul Carty of Pirtle Construction. Mr. Marguido explained the components of "green" building. Mr. Carty advised that Pirtle had volunteered to do this with their office building and encouraged Council to create mandates for "green" buildings.

Mayor Truex asked Mr. Carty if they had calculated how long the improvements would take to pay for themselves. Mr. Carty explained that different components paid for themselves over different periods, and they considered the entire life span of the buildings.

3.4 Green Building Concepts - Jeff Evans Associates, P.A.

Jeff Evans described how Davie could start the process to become a Green City. He had distributed printed information to Council outlining changes for every Town department. Mr. Evans informed Councilmember Crowley that his presentation could be downloaded from the Internet.

Councilmember Starkey thanked Mr. Evans and Mr. Pirtle for creating these initiatives, and stated that Council had made “green building” a priority for the coming year.

3.5 Leadership in Energy and Environmental Design (LEED) - US Green Building Council

Rob Hink, from the U.S. Green Building Council, advised of legislation being initiated by other communities.

Councilmember Starkey asked for an estimate of how long it would take to implement green ordinances. Mike Mungal, Engineer, described his experience in the green building industry. He encouraged Council to continue moving forward with green building for the Town. Mr. Shimun advised that he had directed staff to formulate the ordinance as soon as possible. Mayor Truex asked that this be accomplished by fall.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, directing staff to create a resolution stating the Town's intent to explore green concepts and encourage LEED-certified buildings. In a voice vote, all voted in favor. (Motion carried 5-0)

3.6 Airport Legal Counsel

Richard Richards, the Town's legal counsel, provided an update on the airport expansion issue. He explained that the Draft Environmental Impact Statement would be combined with approximately 1,000 pages of public input to create the Final Environmental Impact Statement. He advised that the Statement would be commented upon by the FAA, who would then issue a record of decision. Mr. Richards said the EIS would inform Davie of what the impacts of the airport development would be, and would also inform Broward County of the amount of money it would need to spend for mitigation.

Mr. Richards predicted that the next step after the record of decision would be litigation. He estimated it would cost \$100,000 per year to get to filing the complaint in federal court in three years.

Councilmember Starkey asked if Council discussions on this would be considered executive sessions. Mr. Cherof advised that Council could not conduct "shade sessions" until they were involved in litigation.

Vice-Mayor Caletka asked about non-litigation means of delaying the process. Mr. Richards said the federal lobbyists should be used to make contacts on the Town's behalf. He advised that the Town could create a detailed resolution describing its position.

Councilmember Crowley was in favor of moving forward, but remarked that "obviously, it's not falling our way," so he would not vote to continue paying the consultants to fight what might be a lost cause. Mayor Truex felt they should continue, in order to force the Broward County Commission to acknowledge the impacts of the project. Councilmember Starkey felt they had made some progress. Councilmember Luis shared Councilmember Crowley's fear that costs could become excessive, but felt that right now, they should continue.

Councilmember Starkey made a motion, seconded by Mayor Truex, for staff to prepare a resolution for their next agenda stating their opposition to the County Commission's recommendation to expand to an 8,000-foot runway, advising them to update the Master Plan before making any decisions and requesting that they continue the Part 150 Study to provide current data on which to base a sound financial decision. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Starkey also wanted a letter drafted for Mayor Truex to sign, expressing the Town's concern with the continual violations of the noise thresholds, requesting that planes committing such infractions be fined.

Vice-Mayor Caletka made a motion, seconded by Mayor Truex, that appropriate Town staff should meet with the outside counsel to formulate a plan and determine costs, on which Council could vote. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that staff had recommended that item 6.1 be tabled to July 18, 2007. Councilmember Starkey thought more cities were enacting fees such as this and requested a listing of cities that had. She also wanted an accounting of what some major accidents had cost the Town.

Councilmember Starkey made a motion, seconded by Mayor Truex, to table.

Councilmember Crowley recalled that he had not been present when the voting on this item took place, but said he would have voted against it.

Vice-Mayor Caletka advised that he would not vote to table the item, and wanted the opportunity to fight against the ordinance.

Councilmember Luis asked staff to provide information regarding the services for which the Town already charged. In a voice vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Caletka - no; Councilmember Crowley - no; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion failed 2-3)

Mayor Truex announced that staff had requested that item 4.15 be tabled. Development Services Director Mark Kutney explained that the applicant had requested tabling to July 18.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Assistant Town Administrator Ken Cohen explained that item 4.5 was being re-bid and staff had withdrawn it.

4. APPROVAL OF CONSENT AGENDA

Minutes

- 4.1 April 18, 2007 (Regular Meeting)
- 4.2 May 2, 2007 (Regular Meeting)

Home Business Tax Receipt

- 4.3 Joan Maurer Real Estate, 10741 SW 51 Street

Resolutions

- 4.4 **DISASTER RECOVERY SERVICES - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF BERGERON EMERGENCY SERVICES, INC. TO PROVIDE SECONDARY DISASTER RECOVERY SERVICES AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.** (tabled from June 6, 2007)
R-2007-162
- 4.5 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BIDS FROM WEEKLEY ASPHALT PAVING, INC. AND GENERAL ASPHALT CO., INC. FOR ASPHALT OVERLAY.** (tabled from June 6, 2007)
- 4.6 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BIDS FOR ATHLETIC EQUIPMENT.**
- 4.7 **BOARD - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, CREATING THE CHARTER REVIEW BOARD, WHICH IS CREATED FOR THE PURPOSE OF REVIEWING THE CHARTER OF THE TOWN OF**
R-2007-163

DAVIE AND MAKING RECOMMENDATIONS TO THE TOWN
COUNCIL; AND PROVIDING AN EFFECTIVE DATE.

- 4.8 **CHANGE ORDER** - A RESOLUTION OF THE TOWN OF DAVIE,
FLORIDA,
R-2007-165 AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER #10
WITH SELDIN CONSTRUCTION, INC. TO CHANGE THE
CONTRACTED SCOPE OF WORK AS DESCRIBED IN THE
ATTACHED CHANGE ORDER #10. (increase of \$56,251)
- 4.9 **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE,
FLORIDA,
R-2007-166 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH
CPZ ARCHITECTS, INC. FOR MISCELLANEOUS
ARCHITECTURAL SERVICES.
- 4.10 **SUPPORTING PURCHASE** - A RESOLUTION OF THE TOWN OF
DAVIE,
R-2007-167 FLORIDA, SUPPORTING BROWARD COUNTY'S EFFORTS TO
PURCHASE 1.3 ACRES OF VACANT OPEN SPACE,
OTHERWISE KNOWN AS THE PINE ISLAND RIDGE ADDITION,
CONSERVATION LAND SITE 403B; AND PROVIDING FOR AN
EFFECTIVE DATE.
- 4.11 **MODIFICATION** - A RESOLUTION OF THE TOWN OF DAVIE,
FLORIDA, TO
R-2007-168 REQUEST A MODIFICATION OF BROWARD COUNTY LAND
USE PLAN FLEXIBILITY ZONE BOUNDARIES BETWEEN
FLEXIBILITY ZONES 101 AND 102 IN ACCORDANCE WITH THE
BROWARD COUNTY LAND USE PLAN AND THE
ADMINISTRATIVE RULES DOCUMENT: BROWARD COUNTY
LAND USE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.
- 4.12 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,
FLORIDA
R-2007-169 AUTHORIZING THE MAYOR AND THE TOWN
ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN
THE TOWN OF DAVIE AND THE FLORIDA DEPARTMENT OF
TRANSPORTATION TO CONSTRUCT A FEDERALLY FUNDED
MASTER SIGNAGE PLAN BY THE TOWN OF DAVIE; TO
ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR
SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN
EFFECTIVE DATE.
- 4.13 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,
FLORIDA,
R-2007-170 RATIFYING THE COLLECTIVE BARGAINING AGREEMENT
BETWEEN THE TOWN OF DAVIE AND THE DAVIE
PROFESSIONAL FIREFIGHTERS, INTERNATIONAL

ASSOCIATION OF FIRE FIGHTERS, LOCAL 2315; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

- 4.14 **FIRE MANAGEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SETTING FORTH CERTAIN BENEFITS FOR FIRE MANAGEMENT BATTALION CHIEF, FIRE INSPECTOR SUPERVISOR, FIRE MARSHAL, ASSISTANT FIRE CHIEF AND DEPUTY FIRE CHIEF; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE.

Quasi-Judicial Consent Agenda

- 4.15 SP 12-05-06, Forest Lawn Funeral Home, 6530 State Road 84 (B-2) *Site Plan Committee recommended approval subject to staff's recommendations*

- 4.16 MSP 7-1-06, The Colonnades @ University/New Dawn Davie, 5500-5550 South University Drive (CC) *Site Plan Committee recommended approval subject to the staff report and the following items: 1) clarify the parking deck locations on the colored site plan before it is presented to the Town Council; 2) hire a certified arborist to evaluate each tree for its assessed value before it is removed, which will be presented to staff and the total amount to be paid into the tree preservation fund or plant trees of the same value throughout the Town under staff's supervision; 3) tree mitigation must be completed before a clearing and grubbing permit is issued; and 4) include 'T' turn-arounds at the dead ends on each parking deck*
- 4.17 SPM 4-2-07, Rick Case Smart Dealership, 3500 Weston Road (BP) *Site Plan Committee recommended approval subject to staff's report and the following provisions: 1) that the applicant install a temporary landscape buffer to meet with staff's approval on the future development area behind the building and that the landscaping would be removed or relocated when the future development area was developed; 2) connect the sidewalk along the front of the building to the vehicle display area on the southwest corner of the property; 3) adjust site plan lighting to make the foot-candle levels consistent with the adjacent Hyundai Dealership; and 4) to make a note on the approval that if the parcel is ever sold to a separate ownership, a dumpster site must be added*

Councilmember Crowley pulled items 4.4, 4.7, 4.14 from the Consent Agenda. Vice-Mayor Caletka pulled item 4.13. Mayor Truex pulled items 4.16 and 4.17.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve the consent agenda less items 4.4, 4.7, 4.13, 4.14, 4.16, and 4.17. In a voice vote, all voted in favor. (Motion carried 5-0)

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.4 Mr. Cherof informed Councilmember Crowley that there were no limits regarding their assignments to this firm and added that the existing contract with AshBritt contained a non-exclusive clause. He said that the Town was within its authority to award contracts for additional work to additional companies.

Councilmember Crowley felt there was sufficient cleanup work to warrant splitting it between two companies. Mayor Truex said a division of labor was not before them, and he did not think splitting the Town was an efficient way to do it. He felt AshBritt had performed all tasks and met the goals the Town had given them in the past. Councilmember Crowley disagreed, noting that it "it really kicked in gear when we brought two firms in..." Mayor Truex reminded Councilmember Crowley that they had never brought in a second firm, which Mr. Cohen confirmed. Mr. Cohen explained that at the emergency meeting, Council had directed staff to bring in a second firm only if AshBritt could not bring in a certain number of vehicles, which they had done.

Councilmembers Crowley and Starkey said that AshBritt had not acted swiftly until threatened with the possibility that the Town would bring in another firm.

Councilmember Starkey wanted the second firm under contract prior to a hurricane to ensure that the Town had sufficient resources if the need arose.

Vice-Mayor Caletka felt AshBritt's owner would feel "kicked in the chin" if the Town signed another contract, but he acknowledged that having a local company should enable a faster response, and would ensure citizens' safety.

Councilmember Luis felt it would be best for the Town to have two firms. He wondered why the contract was not re-bid. Mr. Cohen explained that the AshBritt contract was the lowest rate of any hauler during Hurricane Wilma and was still at the same rate. The current contract did not expire until

August. Mayor Truex wanted to direct staff to negotiate with Bergeron to get the same terms they had with AshBritt. Mr. Cohen advised that Council could have AshBritt keep the contract until the end of the hurricane season, and to request Bergeron work at the same rate through the season. After hurricane season, they could create a new RFP, divide the community and allow firms to bid on one or both sides.

Mr. Bergeron stated that the price he had provided when the Town requested his company to be a backup contractor was identical to AshBritt's. Mayor Truex asked if Bergeron could service the entire Town, and Mr. Bergeron replied that they could.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve subject to Bergeron's price being the same as AshBritt's, determining whether AshBritt would honor the contract through hurricane season, and to decide in the future whether to split the Town between two firms or not. In a voice vote, all voted in favor. (Motion carried 5-0)

4.7 Councilmember Crowley wondered if changes to the Charter could be accomplished and on the January primary ballot, so the Town would not need to pay for a March ballot. Town Clerk Muniz responded that the changes must be ready by November 16th for submission to the Supervisor of Elections for the January ballot. He indicated that a referendum could also be done through a mail-in ballot. Vice-Mayor Caletka supported the mail-in ballot, provided citizens were not required to pay the mailing costs.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.13 Vice-Mayor Caletka stated that he would vote against this resolution. He noted the delays caused by all parties, and said if he were a firefighter, he would feel like "my governing body left me behind." The way the pension had been restructured, Vice-Mayor Caletka noted that firefighters who were already retired would not see the same increase as future retirees. He reminded everyone of the budget meeting a few days ago, where staff layoffs had been discussed, and he felt this had been necessitated by the firefighters' pension increase. Mr. Shimun clarified that so far, no staff had been laid off and explained that vacant positions would not be filled.

Councilmember Starkey noted that the contract had been discussed for two years. She reminded everyone that the pension increase would use 175 dollars, so there would be no additional costs to the Town. Councilmember Starkey said that the Town wanted to be in the top third for compensation to attract qualified, experienced firefighters.

Councilmember Luis stated the retirement pension put the firefighters on a par with the Police Department. He agreed that the Town must remain in the top third to attract and keep qualified firefighters.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve.

Mayor Truex felt the contract went too far, and the Town could not afford it.

Mr. Shimun stated there was a scrivener's error in the information presented. Human Resources Director Mark Alan explained that he had sent a memo describing corrections made to numberings and some other items to which the union and Town both agreed.

Councilmember Crowley amended his motion to include the corrections noted in Mr. Alan's memo dated June 20, 2007. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Caletka - no; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 3-2)

4.14 Councilmember Crowley requested that this item be tabled to the next meeting to consider some additional information he had received.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to table to July 18. In a voice vote, all voted in favor. (Motion carried 5-0)

4.16 Mayor Truex wanted clarification regarding the access to 76th Avenue. Frank Costoya, representing the applicant, explained that the access was for Central Broward Drainage District, Town utilities, police, fire and rescue, and would be a driveway with gates to prevent other access.

Councilmember Crowley wanted the access limited to police and fire emergency use only.

Councilmember Crowley made a motion, seconded by Mayor Truex to approve, subject to the condition that the gate on 76 Avenue was for police and fire emergency use only.

Councilmember Starkey asked Mr. Costoya if the applicant would incorporate green building concepts, and Mr. Costoya said they already were. Councilmember Starkey said they had also discussed complying with the "night sky" ordinance. Mr. Costoya advised that their design also included no spillover and lower lighting.

Councilmember Crowley amended his motion to include that they would include green design concepts, and Councilmember Starkey's comments regarding the lighting. Mr. Costoya agreed. In a voice vote, all voted in favor. (Motion carried 5 -0)

4.17 Mr. Cherof swore in witnesses.

Acting Planning & Zoning Deputy Manager David Abramson summarized the staff report.

Mayor Truex asked about the lighting standards. Mr. Abramson said that the plan would be consistent with the existing lighting at the dealership. Mayor Truex asked if the signage would be adequate. A Rick Case representative said they would "live within the Code requirements for the signage."

Mr. Cherof opened the public hearing portion of the meeting. As no one spoke, Mr. Cherof closed the public hearing.

Council gave their disclosures on this item.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

6. PUBLIC HEARING

Ordinances - Second and Final Reading

6.1 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE,**
2007-13 **FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE II, SECTION 12-24, STATEMENT OF**

PURPOSE AND INTENT OF ZONING DISTRICTS; ARTICLE III, SECTION 12-32, TABLE OF PERMITTED USES; SECTION 12-33 GENERAL REGULATIONS; SECTION 12-34, DETAILED USE REGULATIONS – STANDARDS ENUMERATED; ARTICLE V, SECTION 12-83, COMMERCIAL CONSERVATION STANDARDS; ARTICLE VI, SECTION 12-107, LANDSCAPING STANDARDS FOR LOTS AND SITES; ARTICLE VII, SECTION 12-208, REQUIREMENTS FOR OFF STREET PARKING; ARTICLE XI, ADDING SECTION 12-349 REVIEW OF APPLICATIONS FOR DEVELOPMENT OF LAND FORMERLY IN HACIENDA VILLAGE OR UNINCORPORATED BROWARD COUNTY CURRENTLY USED FOR RECYCLING, SCRAP METAL PROCESSING, AND AUTOMOBILE WRECKING YARD; AND AMENDING ARTICLE XIV, SECTION 12-503, DEFINITIONS; AMENDING RECYCLING, SCRAP METAL PROCESSING, AND AUTOMOBILE WRECKING YARDS AS EXISTING LEGAL USES IN THE M-3 ZONING DISTRICT WHEN THE PROPERTY WAS DESIGNATED FOR JUNKYARD USE UNDER HACIENDA VILLAGE OR BROWARD COUNTY CODES AND THE EXISTING USE IS LEGALLY PERMITTED; PROVIDING FOR INCLUSION IN THE TOWN CODE;

PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY;
AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from June 6,
2007) *Local Planning Agency recommended approval subject to the
amendments previously set forth which were: 1) an amendment to
Subsection (U), page 4, four lines up from the bottom of the page, it
should read "...practices otherwise conform to generally accepted
Recycling, Scrap Metal Processing and Automobile Wrecking Yard
business practices, the operation does not emit noxious odors, is in
conformance with all applicable environmental regulations, and
otherwise conforms with the nuisance standards as defined by the Town
code."*; 2) page 5, with (HH), add to the end of the last sentence:
*"...which shall not be deemed to include the permanent storage of said
inventory or material."*; and 3) in the same definition as (HH) after the
previously added wording, add the sentence: *"This definition shall not
be deemed to include the reduction of concrete to a powder like form."*
{Approved on First Reading May 16, 2007. All voted in favor.}

Mr. Cherof read the ordinance by title.

Vice-Mayor Caletka reported that he had met with the applicant, who had satisfactorily addressed his concerns. Councilmember Starkey asked staff to address the concerns Vice-Mayor Caletka had. Mr. Kutney advised that staff had met with the applicant twice since Council had directed this. He said they had either compromised or agreed on most items, but three items of disagreement remained. Councilmember Starkey wondered what the urgency was, since nothing was prohibiting Mr. Danielle from operating his business. Mr. Kutney felt Mr. Danielle wanted the changes to allow some activities that were prohibited due to the non-conforming status of the property. Mr. Kutney explained that even if this were approved today, since staff would have regulations relating to the TOC in the fall, the use would not be permitted in the new TOC regulations and they would need to return.

Vice-Mayor Caletka asked what additional uses would be permitted. Mr. Kutney said any increase in facilities or intensity of use would require a change in status of the property.

Councilmember Crowley asked if staff's points of disagreement were different or new items other than those voiced by Vice-Mayor Caletka at the previous hearing. Mr. Shimun explained that these were items they had been unable to agree upon during negotiations, and staff saw this as a policy decision to be made by Council.

Mayor Truex opened the public hearing portion of the meeting.

Sam Poole, attorney for Mr. Danielle, explained that for four years, his client had wanted to erect a building on the property, and this was what had triggered this process. Mr. Poole stated that there were only two remaining areas of disagreement of which he was aware. The first concerned the prohibition of grinding concrete, a practice Mr. Danielle had ceased. Mr. Poole noted a difference in staff's proposed language, which included the phrase "for the purpose of reducing." Mr. Poole said they had not agreed to this particular language. The language they had approved was, "...and shall not include the processing of concrete to a powder-like form."

Mr. Poole said the other point of disagreement concerned the requirement that all salvage/recycling processing take place inside a building, since this would not be possible

for items such as mobile homes. He had suggested additional language, "Except for reducing large materials to a size for inside processing..." Mr. Danielle stated approximately 2,500 - 3,000 larger items had been processed at the site since its annexation into Davie.

Mr. Poole said they had agreed to include an additional 10-foot landscape buffer inside the fence and staff had agreed to remove the 10-year amortization period language, but staff had reinserted it in the latest draft. Mr. Kutney thought they had agreed to disagree on this, not to removing the language.

Mr. Poole explained to Councilmember Luis that they still broke up concrete in order to remove rebar, but they no longer processed that concrete into a powder.

Doug Goeth, Director of Engineering for Watson Laboratories, located directly across the street from Mr. Danielle's property, said they were concerned about airborne concrete dust in the area. He described problems they experienced due to the concrete dust generated on Mr. Danielle's property, from the current rebar removal process, and said he wanted the practice stopped.

Mark Engle, Chair of the Davie Community Redevelopment Agency (CRA), advised that the CRA was concerned about the longevity of the Traffic Oriented Corridor (TOC). The CRA wanted assurance that when the TOC came through, development would conform to the TOC regulations.

Will Allen, Redevelopment Administrator, reported a new letter had been received from the New Town Commerce Center stating their wish that the new Code amendments would prevent resumption of the same or similar operations [of concrete crushing] because of the adverse health and environmental effects of the resulting dust.

Michael Mannes explained that litigation had commenced regarding the concrete issue, and the concrete processing operation had ceased. He reiterated that there was a difference between that activity and the breaking of the concrete to free the rebar.

Mayor Truex closed the public hearing.

Mayor Truex favored most of staff's language; however, for the language regarding "adjoining the roadway or if it's interior" he stated he would go along with Mr. Poole's language. Mayor Truex felt the amortization should be extended to 15 years for full compliance. He was especially concerned with the concrete processing, and wanted to use staff's language to disallow all concrete processing.

Councilmember Starkey pointed out that they were moving toward the TOC and more compatible uses, and further accommodating Mr. Danielle's business was counter to Council's vision. Councilmember Starkey opposed both language versions.

Councilmember Crowley said he wanted to move forward, based on what Council had approved at the first reading.

Councilmember Luis said he would support it.

Vice-Mayor Caletka said the concrete powdering had been addressed, and the last issues were the threshold for compliance and the outdoor processing of large items. He asked Mr. Danielle's current position on the amortization. Mr. Poole said he would agree to a 15-year amortization period.

Vice-Mayor Caletka asked if Mr. Danielle would agree to add language that no new uses would take place on the property. Vice-Mayor Caletka asked that language stating the specific processes currently taking place on the property be added, or, "the removal of the recycling of the concrete." Mr. Poole clarified with Vice-Mayor Caletka that "recycling concrete" meant the removal of the rebar from the concrete. Mr. Shimun pointed out that the ordinance would allow Mr. Danielle to continue activities listed, and because the categories were somewhat general, he would be permitted to utilize new products or processes without requesting specific permission.

Councilmember Luis wanted Mr. Danielle to agree to discontinue any use that became a nuisance to neighbors.

Councilmember Crowley warned Council that if they did not act, the business would continue operating as it had indefinitely.

Mr. Poole explained to Mayor Truex that the items from which the rebar was being removed, could not be manipulated inside a 35-foot building, so this process must

take place outside. Mayor Truex wanted to require the rebar removal to take place in a fully enclosed building. Mr. Poole explained that this operation did not generate a lot of dust. Councilmember Luis said he had witnessed this process at Mr. Danielle's business, and agreed it did not generate a lot of dust.

Vice-Mayor Caletka made a motion, seconded by Mayor Truex, to approve staff's version of the ordinance with the following changes: having the threshold of compliance be 15 years instead of 10 years; eliminate the clause that excludes all concrete recycling and add the language to "not reduce to a powder-like form"; and to make the applicant's amendment to the outside processing due to the vehicular size that they had offered.

Councilmember Crowley asked if Mr. Danielle agreed to Councils' motion. Mr. Poole asked that the motion include the 10-foot wall setback. He said there was a specific particulate concentration in the Code that defined when it became a violation.

Vice-Mayor Caletka amended his motion to include the 10-foot setback and Mayor Truex agreed.

Mr. Danielle agreed to the 15-year amortization.

Councilmember Crowley asked what would happen if the TOC did not go through. Mayor Truex said in that case, Mr. Danielle could apply for a code change. Vice-Mayor Caletka said he had discussed the TOC with the County Commission, and he felt this would "go over very well" when it was presented to them.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - no. (Motion carried 4-1)

- 6.2 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE VIII, SIGNS, LIGHTING, DIVISION 1, SIGNS, SECTION 12-243, DETAILED SIGNS REGULATIONS, D) TEMPORARY SIGNS, 2) REAL ESTATE SIGNS, d) OPEN HOUSE SIGNS; TO PROVIDE FOR RESIDENTIAL TRANSITORY SIGNS FOR ONE DAY ACTIVITIES; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. *{(Local Planning Agency approved subject to 1) remove the text which stated "which may be displayed for one (1) day only;" 2) that subsection 5 be deleted; and 3) amend subsection 4 to include after "...the same calendar day, but no later than 9:00 p.m., and if not, the signs may be removed by the Town"* **{Approved on First Reading June 6, 2007. All voted in favor.}****

Mr. Cherof read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - out of the room; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 4-0)

- 6.3 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE XIII, SPECIAL PLANNING AREAS AND DISTRICTS, ADDING DIVISION 5, UNITED RANCHES; ACKNOWLEDGING THE ANNEXATION AGREEMENT SPECIFYING THAT BROWARD COUNTY ZONING CLASSIFICATIONS, RULES AND REGULATIONS ARE TO REMAIN IN EFFECT; PROVIDING FOR SEVERABILITY; AND**

PROVIDING FOR AN EFFECTIVE DATE. **{Approved on First Reading June 6, 2007. All voted in favor.}**

Mr. Cherof read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - out of the room; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 4-0)

Resolutions

- 6.4 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**
R-2007-171 AUTHORIZING THE MAYOR AND APPROPRIATE TOWN OFFICIALS TO EXECUTE THE PURCHASE AND SALE AGREEMENT WITH HARRY WAYNE BATTEN FOR THE PROPERTY KNOWN AS BATTEN'S FARM; AND PROVIDING FOR AN EFFECTIVE DATE. (\$4,000,000; Town's share - \$2,040,377)

Mr. Cherof read the resolution by title.

Mayor Truex opened the public hearing portion of the meeting.

Hully Gill felt this was a "golden opportunity" and he supported the resolution.

Mayor Truex wanted to offer Mr. Batten the appraised value of the property, to be consistent with the offer they had made for the land adjacent to the Old Davie School. Mr. Cohen said they had paid 6% over the appraised value for the land adjacent to the Old Davie School.

Councilmember Crowley was concerned about not receiving the funding from the County. Programs Manager Phil Holste explained that this was a reimbursement approved by Council and the County Commission, and the money was set aside once the Town had a signed contract with the seller. Mr. Holste said this document had already been transmitted to the County. Councilmember Crowley wanted to add a contingency to the contract that the Town must receive the County portion of the funds. Mr. Cherof explained where this clause should be added to the contract. Mr. Holste was not sure when the County money would be provided. Mr. Cherof recommended allowing 60 days for County reimbursement; if this was not sufficient, they could amend the contract.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve subject to Mr. Cherof's comments. Mr. Cherof agreed to draft the additional condition. Councilmember Crowley added that the purchase price would be \$3,800,000.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.5 **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**
R-2007-172 AUTHORIZING THE MAYOR AND APPROPRIATE TOWN OFFICIALS TO EXECUTE THE PURCHASE AND SALE AGREEMENT WITH PAMELA PELKEY-ROSE AND MARCO ROSE FOR THE PROPERTY KNOWN AS SUNNY LAKE EXPANSION; AND PROVIDING FOR AN EFFECTIVE DATE. (\$830,000; Town's share - \$423,527)

Mr. Cherof read the resolution by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing.

Vice-Mayor Caletka made a motion, seconded by Councilmember Starkey, to approve.

Mr. Holste provided an update on the survey and title search. He anticipated receiving a survey by the end of the month and the closing set for approximately July 27th.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Ordinance - First Reading (Second and Final Reading to be held July 18, 2007)

6.6 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING GARBAGE AND REFUSE, CHAPTER 9, ARTICLE II., COLLECTION AND REMOVAL, SECTION 9-25 RECEPTACLE REQUIREMENTS; THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE III, USE REGULATIONS, DIVISION 2, GENERAL REGULATIONS, SECTION 12-33, GENERAL REGULATIONS ADDING SUBTITLE (JJ) DUMPSTER ENCLOSURES; ARTICLE VI, SITE LANDSCAPING, SECTION 12-111, MINIMUM LANDSCAPING REQUIREMENTS FOR OUTDOOR EQUIPMENT OR FACILITIES; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.** (tabled from June 6, 2007)

Mr. Cherof read the ordinance by title.

Mr. Abramson summarized the planning report.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - out of the room. (Motion carried 4-0)

Item to be tabled

6.7 **STAFF REQUESTING A TABLING TO JULY 18, 2007**
AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CREATING ARTICLE IV COST RECOVERY, SECTION 24-100 USER FEES FOR DEPLOYMENT OF PUBLIC SERVICES OF THE TOWN OF DAVIE CODE OF ORDINANCES; ESTABLISHING AND IMPLEMENTING A PROGRAM TO IMPOSE AND COLLECT USER FEES FOR THE DEPLOYMENT OF PUBLIC SAFETY SERVICES RENDERED BY THE TOWN OF DAVIE FOR MOTOR VEHICLE ACCIDENT SERVICES; PROVIDING DIRECTIONS TO THE CODIFIER; AND PROVIDING AN EFFECTIVE DATE.

Mr. Cherof read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing.

Vice-Mayor Caletka noted that residents paid for public safety in taxes, and this amounted to double dipping through an impact fee. He felt this would add to individual insurance rates as well. Vice-Mayor Caletka strongly disagreed with this.

Councilmember Crowley believed the Town provided public service and this did amount to an additional fee.

Councilmember Starkey felt the Town bore the burden and expense from "guilty parties who turn over trucks and tie up the highway and expenses and killing people." She asked to hear from Chief DiPetrillo.

Chief DiPetrillo said he had learned a few years ago that the Town had been absorbing losses due to accidents on the Interstate. He referred to a particular tanker truck accident within the past year that caused hundreds of thousands of dollars in damages and shut the road down for several days. Chief DiPetrillo said the Town had no means to recoup expenses from accidents such as this. He said the Budget Advisory Committee had told him to proceed with this, and he had requested Mr. Cherof's advice on how to proceed. Councilmember Starkey said they had determined that cities were starting to charge these types of fees.

Police Chief John George explained that the Town utilized resources to make up for the lack of Florida Highway Patrol coverage. He thought the Town might try to recover some costs from the State. Chief DiPetrillo explained how the consultant recovered the fees from the insurance company.

Councilmember Luis asked if this could be amended to cover only catastrophic events. Vice-Mayor Caletka believed this would increase insurance rates and felt the ordinance was an unwarranted overreaction to one specific catastrophic event.

Mr. Shimun felt it “unconscionable” for the residents to pay for accidents that were not their responsibility. He added that the budget included \$900,000 based on the passage of this ordinance. If Council did not approve the ordinance, the budget must be reduced by \$900,000.

Mr. Cherof felt the concept of cost recovery was sound, but the consultant had erred in calling this a user fee. By Florida Law, a user fee was optional, and an individual involved in an accident did not have a choice. He recommended Council not adopt the ordinance as drafted.

Councilmember Crowley made a motion, seconded by Vice-Mayor Caletka, to deny.

Mayor Truex said he would oppose this even if it were re-drafted, because it was a new tax.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Councilmember Starkey made a motion, seconded by Councilmember Luis, to proceed with trying to bring something back to the Council that would be legal, like a cost recovery, or however the Town Attorney saw fit to work with staff on coming up with that language.

Councilmember Luis felt Council needed more facts and suggested that the ordinance be made more specific to address catastrophic events. Councilmember Crowley suggested staff discuss proposals with Council during a briefing. Vice-Mayor Caletka felt a motion was unnecessary at this point.

Councilmember Starkey withdrew her motion and Councilmember Luis agreed.

7. APPOINTMENTS

7.1 Mayor Truex

7.1.1 Mobile Home Task Force (one exclusive appointment - representing a mobile home park owner/manager)

Mayor Truex appointed Gilda Smith.

7.1.2 Open Space Advisory Committee (one exclusive appointment - term expires April 2008)

Mayor Truex appointed Janice Carey.

7.1.3 Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2008) (members should have

a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

7.1.4 Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2008) (members shall be a minimum 60 years of age)

No appointment was made.

- 7.1.5 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

7.2 Councilmember Starkey

- 7.2.1 Airport Advisory Board (one exclusive appointment - terms expire December 2007)

Councilmember Starkey corrected that Sidney Callaway had never accepted her appointment, so he had not technically resigned.

7.3 Councilmember Luis

- 7.3.1 Airport Advisory Board (two exclusive appointments; terms expire December 2007)

No appointments were made.

7.4 Charter Review Board (two exclusive appointments per Councilmember)

Mayor Truex appointed Scott Spages. Vice-Mayor Caletka appointed Judy Paul and Ray Atkins. Councilmember Crowley appointed Scott McLaughlin and Tom Green. Councilmember Luis appointed Julie Aitken and Harry Venis.

- 7.5 Unsafe Structures Board (two non-exclusive appointments; terms expire April 2009) (members shall be permanent resident or have their principal place of business within the Town's jurisdiction) (one appointment shall be a plumbing contractor and one appointment shall be a real estate property manager)

No appointments were made.

8. OLD BUSINESS

Earlier in the meeting, Councilmember Crowley asked to hear from Mr. Rodriguez, since there were no other citizens in attendance. Council agreed.

Don Lunny, representing Steve Rodriguez, refreshed Council's memory that the Rodriguez property had a driveway that did not meet Code, and they were trying to devise an access that better served the neighborhood. Mr. Lunny was aware that staff was drafting an ordinance, and asked for an update on the status of the ordinance. Mr. Kutney advised that staff had the draft, and would meet soon to address their concerns. He thought it would come to Council for approval in July.

Earlier in the meeting, Scott Cristle reported that the owner of Dell Mobile Home Park, had been disregarding the moratorium and was evicting residents. Mr. Cristle had determined that the owner had never filed an exit/relocation plan with the Town, violating State Statute. He advised that the owner had also doubled lot rents, and charged owners up to \$3,000 to dispose of mobile homes.

Mr. Cherof agreed to research the matter and send Mr. Stull notice that the moratorium was in effect. He would also research any applicable State, county, and federal violations involved. Mr. Kutney agreed to have staff visit the property to determine if Code violations were occurring as well.

8.1 Update Regarding "Affordable" Component for Development Application CMSP 9-2-05, Saddle Bridge

Scott Backman, representing Centerline Homes, informed Mayor Truex that they were willing to contribute \$20,000 toward the affordable housing study in lieu of the affordable housing requirement. Mr. Backman advised that they would be willing to pay the full cost of the study, which was approximately \$45,000.

Councilmember Starkey thought the funds should go to the trust fund, not to pay for the consultants.

Mayor Truex clarified that the affordable housing condition would be dropped, the applicant would pay the money to the Town when the building permit was pulled and that the money would be used for the trust fund. Mr. Cherof recommended this be documented in the form of an amendment to the development order.

Councilmember Starkey made a motion, seconded by Councilmember Luis, to accept Centerline's proposal to contribute \$45,000 towards an affordable housing trust fund, to be paid prior to the issuance of a permit, to be made as an amendment to the development order.

Mayor Truex suggested amending this to cover the possibility that if the trust fund was never created, the funds would be used for whatever purpose Council designated.

Mr. Backman asked that the permit be specific to building permit. Mayor Truex felt this should coincide with the first permit, and Mr. Backman agreed.

In a voice vote, all voted in favor. (Motion carried 5-0)

8.2 Town Administrator Evaluation

Mr. Alan advised that he had distributed a form for Councilmembers to use to evaluate Mr. Shimun. He indicated that this form was to be completed and returned to Human Resources for compilation. Mr. Alan stated that he had only received one form.

Council discussed that the forms would be submitted prior to the next Council meeting.

8.3 Town Attorney Selection Process

Council agreed to hear presentations from the two candidates at the July 26th meeting.

9. NEW BUSINESS

There was no new business to be discussed.

10. MAYOR/COUNCILMEMBER'S COMMENTS COUNCILMEMBER CROWLEY

WAL-MART. Councilmember Crowley said he had heard from some constituents that Wal-Mart representatives had contacted staff and/or Councilmembers regarding another proposal. Mr. Cherof advised that Wal-Mart was permitted to contact Councilmembers and it was up to the Councilmember whether to entertain the contact.

Vice-Mayor Caletka said he had been contacted by someone identifying himself as a Wal-Mart lobbyist asking his opinion of a regular Wal-Mart. Vice-Mayor Caletka indicated that this would be considered on a case-by-case basis.

Councilmember Starkey said the same individual had contacted her and she had made no comment, since there was pending litigation.

VICE-MAYOR CALETKA

EFFICIENCY STUDY. Vice-Mayor Caletka felt that a study was in the best interest of the residents, whether or not they could make the budget deadline. He noted there was \$50,000 available in special projects to fund this.

TRUCK STOP PROPERTY. Vice-Mayor Caletka hoped Mr. Shimun would assign a Town liaison to move this issue forward as quickly as possible.

COUNCILMEMBER STARKEY

595 COMMERCE DEVELOPMENT. Councilmember Starkey advised that residents had been promised improvements such as a trail, a buffer berm, a wall and landscaping on the south side of the property. She asked that Code Compliance visit the property and investigate if these improvements were taking place.

LITTLE COUNTRY ESTATES. Councilmember Starkey said that fill was continuing to be brought onto the property on “115th and 17th” and there was a flooding problem in this area. She asked that Code Compliance visit this property as well.

EMPTY LOT ON HIATUS ROAD. Councilmember Starkey stated that although the owner had erected an obstruction, ATVs and trucks continued to access the property. She suggested that any unattended vehicles be towed from the property.

595 ELEVATED LANES. Councilmember Starkey felt Council should meet with the surrounding communities, specifically the City of Plantation, regarding this issue. She opposed any private ownership of the roadway or construction of the lanes. Councilmember Starkey recommended a resolution, a special meeting or workshop with other communities to discuss this. She was concerned about a bill on the Governor’s desk allowing for privatization of highways. Councilmember Starkey agreed to forward the information to Mr. Shimun. Mayor Truex recommended putting this item on the their next agenda for discussion.

COUNCILMEMBER LUIS

EFFICIENCY STUDY. Councilmember Luis felt Council must move the efficiency study forward as soon as possible. Mr. Shimun advised that he was formulating an RFP and would put it out in a few weeks. Vice-Mayor Caletka recommended that the Town use the vendor with whom they already had a contract. Mr. Shimun said \$50,000 was over the bid limit. Councilmember Luis felt the study would help Council be more confident in making budget decisions.

Vice-Mayor Caletka made a motion, seconded by Councilmember Luis, to amend the Town’s agreement with Moore Stephens Lovelace to increase the contract amount up to \$50,000 to contract for an efficiency study, subject to the attorney’s recommendations and approval.

Mayor Truex felt that if this were not illegal, it was “definitely immoral” and Council should not subvert the bid process. Council discussed whether they should bid the efficiency study. Mr. Cherof explained that if Council determined this company constituted a profession, it was exempt from competitive bidding.

In a voice vote, with Mayor Truex and Councilmember Starkey dissenting, all voted in favor. (Motion carried 3-2)

MAYOR TRUEX

FIRE ASSESSMENT. Mayor Truex asked if Council could discuss the fire assessment for the TRIM notices. Mr. Cherof advised that Council could request information on this.

Chief DiPetrillo said he was unsure if Council must take official action to notify the Property Appraiser’s Office regarding the assessment. Mr. Cohen explained that

Council's taking no action indicated that they had no intention of increasing the assessment. Council could still decrease it if desired.

11. TOWN ADMINISTRATOR'S COMMENTS

No comments were provided.

12. TOWN ATTORNEY'S COMMENTS

No comments were provided.

13. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 12:52 a.m.

Approved _____

Mayor/Councilmember

Town Clerk